

REMARKS/ARGUMENTS

Reconsideration is requested. Claims 1-19 and 21-46 are currently pending. Responsive to the Office Action of August 24, 2007, the Examiner's comments and the cited art have been noted and studied. For reasons to be set forth in detail below, it is respectfully submitted that the present application is in condition for allowance, and such action is requested.

Independent claims 1, 23, 35, 37, 38, 40 and 46 have been amended to recite that when the cap contacts and is urged towards dermal tissue, the at least first and second portions deform resiliently "such that the opening is reduced in size" (see, for example, paragraph 0055, paragraph 0056, paragraph 0058, paragraph 0065, paragraph 0070, paragraph 0072 and original independent claim 22). Consequently, independent claim 22 and dependent claims 3, 32 and 41 have been cancelled.

Dependent claims 28 and 29 have been amended to delete subject matter that was incorporated into independent claim 23.

It is respectfully submitted that the amendments above are supported by the specification, claims, abstract of the disclosure, and drawings as originally filed, and that no new matter has been added.

Claim Rejections Under 35 U.S.C. §102:

The subject matter of claims 1-10, 15-19 and 21-46 was rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6706049 to Moerman (hereinafter "Moerman").

Moerman, as understood, describes a cap with a contact ring attached to the distal end of the cap body. The contact ring includes an opening to allow a portion of the lancet to pass therethrough to effect puncturing of the dermal tissue (see, for example FIGs. 3A, 4A, 6, 11, 13 and column 4, lines 44-48; column 8, line 65; column 9, lines 40-44). The contact ring is constructed from plastic or other materials suitable for use in a medical instrument (see, for example, column 4, line 62-66; column 9, lines 10-12 and column 10, lines 3-5).

Amended independent claims 1, 23, 35, 37, 38, 40 and 46 of the present Application recite that when the cap contacts and is urged towards dermal tissue, the at least first and second portions deform resiliently “such that the opening is reduced in size”.

Moerman does not appear to teach, describe or suggest that the contact ring is constructed from a resiliently deformable material. Consequently, Moerman does not appear to teach, describe or suggest that the opening through which the lancet passes is reduced in size when the cap contacts and is urged towards the dermal tissue.

For at least the reasons described above, Applicants respectfully submit that independent claims 1, 23, 35, 37, 38, 40 and 46, as amended, are not anticipated or obvious over Moerman and are therefore allowable. Since claims 2, 4-19, 24-31, 33-34, 36, 39 and 42-45 depend from and further limit their respective independent claims, they are allowable for at least the same reasons as their respective independent claims.

Claim Rejections under §103

The subject matter of claims 11-14 was rejected under 35 USC §103(a) as obvious over U.S. Patent No. 6706049 by Moerman in view of U.S. Patent No. 6238575 by Patil (hereinafter “Patil”).

Applicants’ understanding of Moerman is summarized above with respect to the rejections under 35 U.S.C. §102(b). Patil was cited by the Office Action for teachings related to the use of antimicrobial materials. Applicants respectfully submit that Patil does not cure the deficiencies of Moerman described above.

As discussed above, amended independent claim 1 is neither anticipated nor obvious over Moerman. Since claims 11-14 depend from and further limit independent claim 1, they are allowable for at least the same reasons as amended claim 1.

CONCLUSION

In view of the foregoing amendments and remarks, it is respectfully submitted that the application is in condition for allowance and applicants earnestly solicit early examination on the merits and issuance of a Notice of Allowance. Should the Examiner believe that any additional information or amendment is necessary to place the application in condition for allowance, she is urged to contact the undersigned Attorney via telephone at 484-356-1794 or facsimile number 610-644-8717

The Commissioner is hereby authorized to charge any required fees due in connection with this submission, including petition and extension of time fees, and to credit any overpayment to Deposit Account No. 10-0750 (Docket No. LFS5001USACIP/WJ) (Johnson & Johnson).

Respectfully submitted,

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